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SEP 11 2006 Atty. Dkt. No. 039153-0649 (H0982)

## REMARKS

Applicant respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

No claims are requested to be cancelled.

Claims 11, 20 and 28 are currently being amended. No new matter is added.

No claims are being added.

This amendment changes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 11-30 remain pending in this application.

On page 2 of the Office Action, claims 11 and 19-23 are rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent Application No. 2004/0053477 (Ghyselen) in view of U.S. Patent No. 2005/0059242 (Cabral), "and semiconductor wafer bonding", Wiley – Interscience, 1998 (Tong). The Examiner states:

Ghyselen et al. teaches the method of making a structure the method of comprising providing a first semiconductor substrate including a base layer . . . , a strained semiconductor layer . . . , a semiconductor/germaine layer . . . and a first oxide layer . . . , wherein the semiconductor germane layer is above the strained semiconductor layer, . . . attaching a second semiconductor substrate . . . including a second oxide layer . . . to the first oxide layer, and separating the base layer from the first substrate . . . .

Cabral, Jr., et al. teaches siliciding a silicon germane layer of a substrate in order to reduce the resistance of this layer for the purpose of making device contacts . . . , therefore, at the time the invention, it would have been obvious to one of ordinary skill in

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the art to use the method taught by Ghyselen and then to silicide the SiGe layer . . . .

Applicants respectfully traverse the rejection.

On page 5 of the Office Action, claims 24 and 25 are rejected under 35 U.S.C. § 103 as being unpatentable over Ghyselen in view of Cabral and further in view of U.S. Patent No. 6,900,502. The Examiner states:

Ge et al. teaches forming a channel region . . . and source and drain regions . . . in a strained silicon layer . . . because strained silicon has higher carrier mobility than relaxed silicon . . . Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to use the strained silicon layer taught by Ghyselen and Cabral, Jr. together as a channel and source/drain layer as taught by Ge.

Applicants respectfully traverse the rejection.

On page 5 of the Office Action, claims 12-18 and 28-30 are rejected under 35 U.S.C. § 103 as being unpatentable over Ghyselen in view of Cabral and U.S. Patent No. 5,801,075 (Gardner). The Examiner states:

Gardner et al. teaches a method of forming of a trench transistor in multi-layered substrate comprising steps of providing an aperture in the top surface layer . . . and a gate dielectric layer . . . and a gate conductor . . . within the aperture. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to use the method of forming an IGFET taught by Gardner et al. with the method to form a substrate including a semiconductor/germaine layer . . . .

Applicants respectfully traverse the rejection.

On page 10 of the Office Action, claims 26 and 27 are rejected under 35 U.S.C. § 103 as being unpatentable over Ghyselen in view of Cabral and Ge, and further in view of Gardner.

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Applicants respectfully traverse the rejection. Ghyselen, Cabral, Ge and Gardner are referred to below as the cited art.

Each of the above rejections is based upon the Ghyselen reference. Applicants respectfully submit that Ghyselen is not prior art. Applicants have submitted herewith a Declaration from Paul R. Besser and Qi Xiang (Exhibit 1), two of the inventors listed in the present application, to remove Ghyselen as prior art. The declaration refers to an invention disclosure form that demonstrates that the subject matter of the present application was in the possession of the inventors before the filing date of Ghyselen. More specifically, the invention disclosure form shows that the base subject matter was conceived by at least the date June 28, 2002, the date of a patent harvesting session during which the AMD invention disclosure form was received by the original Assignee's technology law department. The present application is now owned by Spansion LLC, (which was spun off from Advanced Micro Devices, Inc.). Applicant's attorney has also submitted a declaration stating that Applicant's attorney was unable to contact the remaining three inventors. Thus, it is respectfully submitted that claims 10-30 are allowable over Ghyselen because Ghyselen does not qualify as prior art under 35 U.S.C. § 102(e) based upon the Rule 131 declaration submitted herewith. Accordingly, reconsideration and withdrawal of rejections of claims 11-30 under 35 U.S.C. § 103 in view of the cited art is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37

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C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1447.

Respectfully submitted,

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